

E-FILED on 11/26/07

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

THE BILLING RESOURCE d/b/a  
INTEGRETEL,

Debtor-Plaintiff-Appellee,

v.

FEDERAL TRADE COMMISSION, et al.,

Defendant-Appellant.

No. C-07-05758 RMW

ORDER DENYING MOTION TO SHORTEN  
BRIEFING SCHEDULE AND ACCELERATE  
HEARING DATE

**[Re Docket No. 4]**

The Federal Trade Commission ("the Commission") moves pursuant to Local Rule 6-1 and Fed. R. Bankr. P. 9007 to shorten the briefing schedule and accelerate the hearing date for its combined motions for stay pending appeal and for a change of venue pursuant to 28 U.S.C. § 1412. The motions to stay and change venue are currently calendared for December 21, 2008. By its motion to shorten, the Commission seeks to modify the briefing and hearing schedule, asking the court to have the parties complete their briefing on December 4 for a hearing on December 7, rather than complete briefing on December 7 for a hearing on December 21, thereby reducing the time for this court to review the matter from the two weeks to three days.

The Commission seeks to stay enforcement of a preliminary injunction order and a temporary restraining order issued by the Northern District of California Bankruptcy Court that

1 enjoins the Commission from prosecuting a civil law enforcement action and related contempt  
2 proceedings against Integretel in the Southern District of Florida until March 14, 2008. The trial,  
3 with which the Commission would like to proceed, involves fourteen defendants including Integretel  
4 and would otherwise begin on February 25, 2008. Notably, the Southern District of Florida court  
5 before which the enforcement action is proceedings previously declined to stay the matter as to  
6 Integretel, citing an exemption to the automatic bankruptcy stay.<sup>1</sup> The Commission also seeks to  
7 transfer this adversary proceeding to the Southern District of Florida. This is in part so that appeals  
8 of the Bankruptcy Court's decision may be heard by the Eleventh rather than the Ninth Circuit,  
9 because the Eleventh Circuit already has before it appeals involving Integretel in the underlying  
10 enforcement action. Because the trial in the enforcement action is set for February 25, 2008, the  
11 Commission seeks an expeditious ruling on the underlying motions to stay and transfer in order to  
12 give it sufficient time to prepare for trial, should it be permitted to proceed.

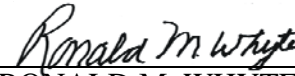
13       The Commission acknowledges in the first sentence of its underlying motion to stay and  
14 change venue that the motion could be briefed and heard in the usual course, but it is concerned that  
15 the court may delay making a decision on the matter.<sup>2</sup> To receive an expeditious decision by this  
16 court, the Commission would be better served by permitting the court to consider the parties' papers  
17 on the usual briefing schedule. Because the court recognizes the Commission's concerns regarding  
18 the upcoming trial in the Southern District of Florida, it will endeavor to issue a ruling within a  
19 week of the December 21 hearing, unless it decides after receiving the appropriate briefing to issue a  
20 ruling sooner on the papers. Accordingly, the court denies the Commission's motion to shorten the  
21 briefing schedule and accelerate the hearing date.

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25 <sup>1</sup> In the underlying motion papers, the Commission strongly asserts that Integretel voluntarily  
26 declared bankruptcy in this district in September 2007 in order to forestall contempt proceedings  
against it in the Southern District of Florida enforcement action, which began in February 2006.

27 <sup>2</sup> The Commission's brief states "[The Commission] believes its motions for a stay pending appeal  
28 and for a change of venue can be briefed in the ordinary course. But, once briefed, the Commission  
requests that these motions be resolved as expeditiously as possible."

1 To expedite the receipt of the briefs by all concerned, service of the briefs and supporting  
2 materials may be made by email. All parties should e-file their documents with the court. Per  
3 general order 45.VI.G, chambers copies of all e-filed material should be provided to the court no  
4 later than noon on the day after e-filing.

5  
6 DATED: 11/26/07

  
RONALD M. WHYTE  
United States District Judge

United States District Court  
For the Northern District of California

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Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program.

**Dated:** 11/26/07

/s/ MAG  
Chambers of Judge Whyte